

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

Crl.Rev.Pet.No. 156 of 1998()

CRA.41/1995 of SESSIONS COURT, PALAKKAD
CC.235/1992 of JUDL.MAGISTRATE OF FIRST CLASS COURT, CHITTUR
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REVN. PETITIONER: APPELLANT/ACCUSED

KRISHNAN, S/O.VELU
ANTHIRAKKODU VEEDU
HARIJAN COLONY, KALLAPPULLY.

BY ADV. SRI.P.VIJAYA BHANU

RESPONDENTS:COMPLAINANT/STATE

STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.DILIP.S.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 11/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

CRL.R.P.NO.156/98

ORDER ON CRL.M.P.NO.833/98 IN CRL.R.P.NO.156/98

DISMISSED

11.7.2007

SD/- K.R.UDAYABHANU, JUDGE

/TRUE COPY/

P.A. TO JUDGE

K.R.UDAYABHANU, J

Crl.R.P.No.156 of 1998

Dated this the 11th day of July, 2007

O R D E R

The revision petitioner is the first accused in C.C.No.235/92 in the court of JFCM, Chittoor with respect to the offence under Section 379 read with 34 IPC. The prosecution case is that on 5.3.1992, at about 2.30 a.m., the accused in furtherance of the common intention committed theft of 480 mtrs. of L.T. line aluminum wire valued at Rs.4,512/- from the electric post.

2. The accused was found guilty and sentenced to undergo S.I., for one year. Only A1 has pursued the matter in appeal and in the revision.

3. The contention of the revision petitioner is that the person from whom Section 27 recovery was effected has not been examined; so also is the witness who attested the seizure mahazar. i.e., Ext. P3. I find that the above contention has no merits as PW11, the Sub Inspector who effected the recovery has testified as to the fact of recovery. The person from whose possession recovery was effected and the witness to the mahazar

were cited as witnesses but could not be examined. The fact that the above persons could not be examined is no reason to hold that the evidence of PW11 is not sufficient to prove the recovery. There is no case that the version of PW11 is vitiated by any infirmities. In the circumstances, I find no reasons to interfere in the concurrent findings of the courts below that the accused is guilty of the offences alleged.

4. Counsel for the revision petitioner has pleaded for leniency pointing out that the incident has taken place in the year 1992 and that 15 years have elapsed since the commencement of the criminal proceedings. It is submitted that the accused is right now aged 58 years. In the circumstances and considering the long delay, the sentence is modified to pay a fine of Rs.5,000/- and in default, to undergo simple imprisonment for six months.

The criminal revision petition is disposed of as above.

**K.R.UDAYABHANU,
JUDGE**

csl